

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 1-10, 12, and 13 are pending in this application. Claim 1 has been amended to more specifically describe the scraper fin being made of an elastic material, such that, when the mixing blade is thrust against the bottom of the inner container by the cover, at least the scraper fin “is elastically compressed to at least partially conform to the shape of the bottom”. Support for this amendment can be found in canceled claim 11 and on page 7, lines 19-24 of the Specification. Claim 9 has been amended to rewrite it in independent form and incorporate the subject matter of original claim 1. Claim 11 has been canceled. New claim 13 has been added to recite that the mixing blade is connected to the drive shaft through key means which cooperate with a seating, such that, “lacking the thrust of said cover (26), said mixing blade (20) slides axially to disengage the key means (30) from the seating (31) to remove said mixing blade (20) from said drive shaft (19) and interrupt transmission of motion from said drive shaft (19) to said mixing blade (20).” Support for new claim 13 can be found on page 7, lines 10-32 of the Specification. Accordingly, no new matter has been added.

Claim Rejection – 35 U.S.C. § 103(a):

The Examiner has rejected claims 1-8, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,205,535 (Maurer) in view of U.S. Patent No. 4,545,216 (Cavalli). The Examiner contends that Maurer discloses an ice cream maker of the type claimed, but admits that Maurer does not disclose the evaporator coil located on the bottom of the inner container. The Examiner contends that Cavalli teaches an ice cream maker having an inner container and an evaporator coil located on the bottom of the container. The Examiner further contends that it would have been obvious to substitute an evaporator coil located on the bottom of the container for the cooling means of Maurer in order to provide a more efficient cooling means for the freezer. In view of the foregoing amendment, Applicants respectfully traverse this rejection.

Claim 1 is directed to a device to produce ice-cream and, as amended, recites, *inter alia*,
an outer container (11), a cover (26), an inner container (14)
including an axial tube (18), a mixing blade (20) including a
scraper fin (120), an evaporator coil (21) to remove heat from the
inner container (14) and, through this, from the material present
therein, the mixing blade (20) being associated at the upper part, in
axially removable manner, with a drive shaft (19) driven in rotation
by drive means and inserted into said axial tube (18), wherein the

evaporator coil (21) is located in cooperation with the bottom (17) of the inner container (14), through at least a contact surface (27), at least said scraper fin (120) being made of an elastic material, and said mixing blade (20) being arranged to axially cooperate directly with said cover (26) through a seating (34) in order to be thrust axially by said cover (26) against the bottom (17) of said inner container (14) such that at least said scraper fin (120) is elastically compressed to at least partially conform to the shape of the bottom (17).

Maurer discloses a soft ice cream machine having a housing 1 and a cooling cartridge 2, which is shaped to fit within the housing 1. Referring to the sole figure, above the cooling cartridge 2 is a hollow space 3, into which a liquid soft ice cream mix is introduced. The top of the housing 1 is then closed using a lid 4 and a lock 6. A scraping and agitating tool 5 rotates about a shaft 11 driven by a motor 9. The scraping and agitating tool 5 is forced against the upper top surface of the cooling cartridge 2 by a compression spring 14 in order to scrape the soft ice cream off of the top surface of the cooling cartridge 2 as it is formed.

Cavalli discloses a device for producing ice cream having a box-like member 1 defining a cavity for receiving a motor 3 and accessories. Referring to Fig. 1, the device has a base 4, on which a freezing tank 5 is secured. The freezing tank 5 has a double wall 6, 7 filled with a heat-insulating material 8. Ducts 9 having a refrigerating liquid therein are substantially in contact with the inner wall 6. A mixer 19 with a pair of blades 20, 21 is secured on a shaft 14 for the mixing of ingredients within the tank 5. Referring to Fig. 2, the blades 20, 21 are covered by blades 26, 27.

Initially, it is noted that Applicants have canceled claim 11, thereby rendering the Examiner's rejection of claim 11 moot.

It is respectfully submitted that the combination of Maurer and Cavalli does not render claim 1 or claims 2-8 and 12 dependent therefrom unpatentable under 35 U.S.C. § 103(a). There is no teaching, suggestion, or disclosure in either Maurer or Cavalli of a scraper fin being made of an elastic material, such that the scraper fin can be "elastically compressed to at least partially conform to the shape of the bottom" when the mixing blade is thrust axially against the bottom. Maurer discloses a scraping and agitating tool that is forced downward against the upper top surface of the cooling cartridge by a compression spring, but is silent as to what material the scraping and agitating tool is made. There is no mention nor depiction of the tool being

elastically compressed to at least partially conform to the shape of the bottom, however, as required in amended claim 1. Although Cavalli discloses a mixer having a pair of blades, there is no mention or depiction of any part of the mixer being made of an elastic material in order to allow it to be elastically compressed to at least partially conform to the shape of the bottom when axially thrust against the bottom. Therefore, even if Maurer and Cavalli were combined, the resulting combination would not have a scraper fin made of an elastic material, so that the mixing blade, when thrust axially against the bottom, causes the scraper fin to be elastically compressed in order to at least partially conform to the shape of the bottom. That is, such a modified Maurer ice cream machine would not read on claim 1, as amended. Therefore, it is respectfully submitted that the combination of Maurer and Cavalli does not render amended claim 1 unpatentable under 35 U.S.C. § 103(a).

For the above reasons and in view of the amendment to claim 1, Applicants respectfully submit that the rejection of claim 1 and claims 2-8 and 12, dependent therefrom, is improper. Accordingly, it is requested that the rejection of claims 1-8 and 12 under 35 U.S.C. § 103(a) be withdrawn.

Allowable Subject Matter:

The Examiner indicated that claims 9 and 10 would be allowable if rewritten in independent form to include all of the subject matter of the base claim and any intervening claims. Applicants have rewritten claim 9 to include all of the subject matter of original claim 1. Original claim 10 is dependent from amended claim 9. Accordingly, Applicants respectfully submit that claim 9 and claim 10 dependent therefrom are in condition for allowance.


New Claim:

Applicants have added new claim 13, which depends from amended claim 1. Because new claim 13 depends from amended claim 1, and further because Applicants assert that amended claim 1 is allowable over Maurer and Cavalli, Applicants assert that new claim 13 is similarly allowable. Accordingly, Applicants respectfully submit that new claim 13 is in condition for allowance.

CONCLUSION

In view of the foregoing Amendment and Remarks, Applicants respectfully submit that the present application, including claims 1-10, 12, and 13, as amended, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,
Alessandro Bonato et al.

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(Date) *for* **MARTIN G. BELISARIO**
Registration No. 32,886
AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013
Telephone: 215-965-1200
Direct Dial: 215-965-1303
Facsimile: 215-965-1210
E-Mail: mbelisario@akingump.com

MGB/MPH/rc